

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Civil Action No. 05-10917 PBS

The HipSaver Company, Inc.,)
Plaintiff,)
)
v)
)
J.T. Posey Company,)
Defendant)
)
)
)
J.T. Posey Company, Inc.,)
Counterclaim Plaintiff)
)
v)
)
The HipSaver Company, Inc. and)
Edward L. Goodwin,)
Counterclaim Defendants)
)
)
)

PLAINTIFF'S MOTION TO EXTEND DISCOVERY

Plaintiff, the HipSaver Company, Inc. (“HipSaver”), moves to extend the discovery schedule to permit the parties to complete discovery. Extension of the discovery deadlines is necessitated by an extended delay in both fact and expert discovery caused by Posey’s refusal to produce documents in response to HipSaver’s Second Request for Production of Documents. On March 2, 2006, Magistrate Judge Collings ordered Posey to produce documents, originally due no later than January 3,

2006, by March 24, 2006. However, production of these documents on March 24, 2006 provides inadequate opportunity for HipSaver to adequately prepare its expert reports, to prepare its expert discovery, including depositions of Posey's experts, and to prepare for trial because discovery is scheduled to close on March 31, 2006.

Thus, HipSaver requests an extension of the discovery schedule to allow for adequate review and preparation. Because production of the compelled documents has been delayed for over two months and because experience to date suggests that the most recent dispute before the court is not the end of discovery disputes in this case, Plaintiff seeks to extend the discovery schedule for a little over two months and to specifically insert a deadline for expert reports separate from a deadline for expert discovery in an effort to minimize subsequent motions to amend the discovery schedule.¹ The grounds for this motion are set forth in detail in the accompanying memorandum of law.

THEREFORE, For the reasons set out here, HipSaver requests revision and extension of the discovery schedule as proposed in **Exhibit A**.

CERTIFICATION UNDER LOCAL RULES 7.1 AND 37.1

The undersigned Courtney M. Quish, certifies that counsel for the parties have conferred by electronic mail and by telephone on March 9, 2006 in a good faith attempt to resolve or narrow issues set out in this Motion but were unable to do so.

¹ A chart illustrating the proposed amended schedule is attached at **Exh. A**.

Respectfully submitted,
THE HIPSAVER COMPANY, INC.
By its Attorneys,

/s/ Courtney M. Quish
Lee Carl Bromberg, Esq.
BBO No.: 058480
Edward J. Dailey, Esq.
BBO No.: 112220
Courtney M. Quish, Esq.
BBO No.: 662288
BROMBERG SUNSTEIN LLP
125 Summer Street - 11th floor
Boston, Massachusetts 02110-1618
617.443.9292
617.443.0004 (fax)
cquish@bromsun.com

Dated: March 10, 2006

CERTIFICATE OF SERVICE

I certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 10, 2006.

/s/ Courtney M. Quish
Courtney Meehan Quish

02820/00502 472976.2

EXHIBIT A

PROPOSED SCHEDULING CHART

	Amended Schedule	Proposed Amended Schedule
Fact Discovery	Dec. 30, 2005	NA
Plaintiff's Expert Designation	Jan. 16, 2006	NA
Defendant's Expert Designation	Feb. 16, 2006	NA
Expert Reports		May 12, 2006
Expert Discovery	March 31, 2006	June 16, 2006
Motion for Summary Judgment	April 21, 2006	July 21, 2006
Opposition to Summary Judgment	May 10, 2006	August 11, 2006
Summary Judgment Hearing	May 31, 2006	September 1, 2006*

* date to be confirmed by the court

02820/00502 472994.1